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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -
IN RE: NATIONAL :
PRESCRIPTION : MDL No. 2804
OPIATE LITIGATION :
----- : Case No.
THIS DOCUMENT RELATES : 1:17-MD-2804
TO ALL CASES : Hon. Dan A. Polster

- - -
Tuesday, February 19, 2019

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CONFIDENTIALITY REVIEW

- - -
Videotaped deposition of CANDACE HARBAUER,
held at the Hilton Garden Inn, Perrysburg, Ohio,
commencing at 9:02 a.m., on the above date, before
Carol A. Kirk, Registered Merit Reporter and Notary
Public.

- - -
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<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 On behalf of the Plaintiffs: 3 MCHUGH FULLER LAW GROUP 4 BY: LANCE REINS, ESQUIRE lance@mchughfuller.com 5 ALLAN (A J) L ELKINS, ESQUIRE allan@mchughfuller.com (via teleconference) 6 97 Elias Whiddon Road Hattiesburg, Mississippi 39402 7 601-261-2220 8 9 On behalf of AmerisourceBergen Corporation (via teleconference and text/video streaming): 10 JACKSON KELLY PLLC BY: SANDRA K ZERRUSEN, ESQUIRE skzerrusen@jacksonkelly.com 50 South Main Street, Suite 201 12 Akron, Ohio 44308 330-252-9060 13 14 On behalf of HBC (via teleconference and text/video streaming): 15 MARCUS & SHAPIRA LLP BY: ELLY HELLER-TOIG, ESQUIRE ehtoig@marcus-shapira.com 17 One Oxford Center, 35th Floor 301 Grant Street 18 Pittsburgh, Pennsylvania 15219-6401 412-338-3345 19 20 On behalf of Walmart (via teleconference and text/video streaming): 21 JONES DAY BY: NICOLE LANGSTON, ESQUIRE nlangston@jonesday.com 23 77 West Wacker Drive Chicago, Illinois 60601 312-782-3939</p>	<p style="text-align: right;">Page 4</p> <p>1 ALSO PRESENT: 2 Michael Newell, Videographer Zachary Hone, Trial Technician 3 4 - - - 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 3</p> <p>1 On behalf of Prescription Supply, Inc FOX ROTHSCHILD LLP BY: JAMES C CLARK, ESQUIRE jclark@foxrothschild.com 3 STEPHAN A CORNELL, ESQUIRE scornell@foxrothschild.com (via teleconference and text/video streaming) 2700 Kelly Road, Suite 300 6 Warrington, Pennsylvania 18976-3624 330-305-6400 7 8 On behalf of Endo Pharmaceuticals, Inc , Endo Health Solutions, Inc , and Par Pharmaceutical Companies, Inc (via teleconference and text/video streaming): 10 ARNOLD & PORTER KAYE SCHOLER, LLP BY: CAITLIN MARTINI MIKA, ESQUIRE caitlin.mika@arnoldporter.com 12 70 West Madison Street, Suite 4200 Chicago, Illinois 60602 312-583-2300 13 14 On behalf of Johnson & Johnson and Janssen Pharmaceuticals: 15 TUCKER ELLIS LLP BY: JENNIFER L STEINMETZ, ESQUIRE jennifer.steinmetz@tuckerellis.com 950 Main Avenue, Suite 1100 18 Cleveland, Ohio 44113 216-592-5000 19 20 On behalf of McKesson (via teleconference and text/video streaming): 21 COVINGTON & BURLING LLP BY: GABRIEL FULMER, ESQUIRE gfulmer@cov.com One CityCenter 23 850 Tenth Street, NW Washington, DC 20001 202-662-5110 24</p>	<p style="text-align: right;">Page 5</p> <p>1 VIDEOTAPED DEPOSITION OF CANDACE HARBAUER INDEX TO EXAMINATION 2 3 WITNESS PAGE 4 CANDACE HARBAUER 5 CROSS-EXAMINATION BY MR. REINS: 10 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>

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<p>1 VIDEOTAPED DEPOSITION OF CANDACE HARBAUER 2 INDEX TO EXHIBITS 3 PSI-HARBAUER DESCRIPTION PAGE 4 PSI-Harbauer 1 Document titled "Current 30 Employees," Bates-stamped PSI0000145-147 5 PSI-Harbauer 2 Code of Federal Regulations, 52 21 C F R 1301 74 6 7 PSI-Harbauer 3 Document titled "Inventory 83 Controls, Document Control Number: WP-1, Effective Date: June 2000," Bates- stamped PSI0000648-652 8 9 10 PSI-Harbauer 4 Document titled "Document 89 Name: Controlled Substances, Document Control Number: WP-2, Effective Date: June 2000," Bates-stamped 11 PSI0000653-654 12 PSI-Harbauer 5 Document titled "Document 89 Name: REMS DO NOT SHIP PROGRAM, Document Control Number: WP-13, Effective Date: February 2011," Bates- stamped PSI0000690-692 13 14 15 16 17 PSI-Harbauer 6 Document titled "Maximum 100 Monthly Quantity Prescription Supply," dated 10/2/2008, Bates-stamped PSI0000280-285 18 PSI-Harbauer 7 Letter from Mr. Rannazzisi, 105 dated 9/27/2006, Bates- stamped CAH_MDL_PRIORPROD_ DEA07_00837645-837648 19 20 21 22 PSI-Harbauer 8 Letter from Mr. Rannazzisi, 109 dated 12/27/2007, Bates- stamped CAH_MDL_PRIORPROD_ DEA12_00010980-10980</p>	<p>1 Fox Rothschild on behalf of 2 Prescription Supply. 3 THE VIDEOGRAPHER: Anyone on the phone? 4 MS. HELLER-TOIG: Elly Heller-Toig from Marcus & Shapira for HBC Service Company. And I also e-mailed my appearance. 5 MS. MIKA: Caitlin Mika from Arnold & Porter on behalf of Endo and Par entities. 6 MR. ELKINS: A.J. Elkins, McHugh Fuller law firm, on behalf of the Plaintiffs. 7 MS. LANGSTON: Nicole Langston from Jones Day on behalf of Walmart. 8 MR. FULMER: Gabriel Fulmer on behalf of Covington & Burling on behalf of McKesson. 9 MS. ZERRUSEN: And Sandy Zerrusen from Jackson Kelly on behalf of AmerisourceBergen. 10 MR. CORNELL: Stephan Cornell</p>
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<p>1 --- 2 P R O C E E D I N G S 3 --- 4 THE VIDEOGRAPHER: We are now on the record. My name is Michael 5 Newell. I'm a videographer for 6 Golkow Litigation Services. 7 Today's date is February 19, 2019. 8 The time is 9:02 a.m. 9 10 This video deposition is being held in Perrysburg, Ohio in the matter of National Prescription Opiate Litigation. The deponent today is Candace Harbauer. 11 Will counsel please identify themselves. 12 MR. REINS: Lance Reins with McHugh Fuller here on behalf of the Plaintiff. 13 MS. STEINMETZ: Jennifer Steinmetz from Tucker Ellis on behalf of Janssen and Johnson & Johnson. 14 MR. CLARK: Jim Clark from</p>	<p>1 from Fox Rothschild for 2 Prescription Supply. 3 THE VIDEOGRAPHER: The court reporter today is Carol Kirk and will now swear in the witness. 4 (Witness sworn.) 5 MR. CLARK: Mr. Reins, before we begin, I just want to put on the record what we discussed out in the hallway a short time ago. 6 Ms. Harbauer has been out of work for the last ten days dealing with some health issues related to her asthma. 7 She has assured me that she'd like to proceed today and is confident to do so. I raise it just because we may need to take a few extra breaks so that she can do a breathing treatment. 8 9 10 --- 11 CANDACE HARBAUER 12 being by me first duly sworn, as hereinafter certified, deposes and says as follows:</p>

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<p style="text-align: center;">Page 10</p> <p>1 CROSS-EXAMINATION 2 BY MR. REINS: 3 Q. Ms. Harbauer, as we discussed 4 before we began, please let me know whenever 5 that arises. You don't need to put yourself 6 through any additional strain here today. So 7 just let us know, okay? 8 A. Thank you. 9 Q. You're welcome. 10 Could I get you to introduce 11 yourself for the record, please. 12 A. Candace Harbauer. 13 Q. And, Ms. Harbauer, have you been 14 through a deposition before? 15 A. Never. 16 Q. Okay. Your counsel has probably 17 advised you but just a couple ground rules 18 before we begin. Obviously I'm going to be 19 asking you some questions here today. 20 Please, because we have a court 21 reporter taking everything down, please let me 22 finish my question before you begin your answer, 23 okay? 24 At the end of this there will be a</p>	<p style="text-align: center;">Page 12</p> <p>1 Supply? 2 A. I'm a VP of administration and 3 also human resources and designated 4 representative. 5 Q. And Prescription Supply, Inc. also 6 goes by the acronym, I guess, PSI? 7 A. Correct. 8 Q. Okay. Tell me a little bit about 9 the company, if you don't mind, the historic 10 background. Do you know when it was formed? 11 A. It was started in 1955 by my 12 grandfather and two of his siblings. Two of 13 them were pharmacists, and there was a need for 14 a regional pharmaceutical distributor. It has 15 always been a family run, very small, 16 independent company. We've grown through the 17 years. There are approximately 12 family 18 members that work for us now. 19 We -- because we're small, we have 20 a great communication base with one another and 21 an interworking relationship. We strive to -- 22 service is our priority, to meet the customers' 23 needs whenever possible and to maintain, you 24 know, a positive, ethical stance.</p>
<p style="text-align: center;">Page 11</p> <p>1 written record of what transpired today so we 2 want to be able to have a clean question and a 3 clean answer, okay? 4 A. Fine. 5 Q. For those same reasons, please 6 verbalize all your answers. No "uh-huhs," 7 "huh-uhs" or head nods. I may remind you, "Is 8 that a yes," "Is that a no," if you shake your 9 head, because we need a verbal response, okay? 10 A. Okay. 11 Q. Lastly, if you answer my question, 12 I'm going to assume two things. One, you 13 understood it, and, two, you're telling the 14 truth. 15 Is that fair? 16 A. Yes. 17 Q. If you don't know something or you 18 need me to rephrase a question, just say so, 19 okay? 20 A. Okay. 21 Q. All right. Can you please tell us 22 what you do for a living? 23 A. I work for Prescription Supply. 24 Q. What do you do for Prescription</p>	<p style="text-align: center;">Page 13</p> <p>1 The company is now run by my 2 mother and my uncle as corporate principals. 3 Q. And who would that be? 4 A. Thomas Schoen and Jacquelyn 5 Harbauer. 6 Q. Do you know when Mr. Schoen, 7 Thomas Schoen, took over? 8 MR. CLARK: Objection to 9 form. 10 A. Precisely, no. He went through 11 several positions before taking on president. 12 Q. Understanding your answer about 13 the company's overall business operations, can 14 you kind of simplify it, if you would. What 15 exactly do you do? Do you supply medications, 16 narcotics, things of that nature? Tell me a 17 little bit in laymen's terms what you do. 18 MR. CLARK: Objection to 19 form. 20 A. The company is a pharmaceutical 21 wholesaler, primarily. 22 Q. And what does that mean? 23 A. That we buy directly from the 24 manufacturer and sell to pharmacies or long-term</p>

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<p style="text-align: center;">Page 14</p> <p>1 care facilities. Our primary business is 2 independent pharmacies, retail. 3 Q. And does that include the supply 4 of narcotics? 5 A. Some. 6 Q. Which ones? 7 A. I wouldn't -- couldn't tell you. 8 Q. All right. And you began with the 9 company when? 10 A. About 22, 23 years ago. 11 Q. Has the company grown in that time 12 period? 13 A. Yes. 14 Q. How so? 15 A. We've developed as -- with 16 technology, computers. All the legal 17 regulations that have come up the pike. We've 18 grown in size. Moved into -- built and moved 19 into a new building. 20 Q. When you say "grown in size," does 21 that include your customer base? 22 MR. CLARK: Objection to 23 form. 24 Q. Let me just ask it this way: How</p>	<p style="text-align: center;">Page 16</p> <p>1 states? 2 MR. CLARK: Objection to 3 form. 4 A. In my opinion, 30. 5 Q. Okay. So when you say small 6 family business, large customer base, though, 7 right? 8 MR. CLARK: Objection. Form. 9 A. Large -- can you define what you 10 mean by "large" -- 11 Q. That's okay. 12 A. -- because that's a comparative 13 statement. 14 Q. Sure. That's fair. 15 How many employees do you have? 16 A. Approximately 80. 17 Q. And you said you moved into a 18 larger facility. What do you mean? How large 19 is your facility? 20 MR. CLARK: Objection. Form. 21 A. We are in a building we built 22 specifically -- well, Prescription Supply -- we 23 rent a building that was designed for us, and 24 it's, I believe, 30,000 square feet.</p>
<p style="text-align: center;">Page 15</p> <p>1 have you grown in size? 2 A. Number of employees, increased 3 sales, and customer base. 4 Q. Let's work in reverse. Customer 5 base, do you know how many customers you have 6 presently? 7 A. No. 8 Q. Thousands or -- 9 MR. CLARK: Objection. Form. 10 Q. If you know. 11 A. My guess would be -- I really 12 can't give you a definitive answer. We might 13 have two or three thousand customers. They're 14 all not active. 15 Q. What geographical area are they 16 spread throughout? 17 MR. CLARK: Objection to 18 form. 19 A. We are in -- predominantly a 20 regional supplier, but we do service many 21 states. 22 Q. Do you know which ones? 23 A. Not offhand all of them, no. 24 Q. Do you know ballpark how many</p>	<p style="text-align: center;">Page 17</p> <p>1 Q. You said your sales have 2 increased. How so? 3 MR. CLARK: Objection to 4 form. 5 A. Just based on the fact that we've 6 been able to increase our employee base and have 7 added additional state licenses. 8 Q. Do you know since 1996 how much 9 your sales have increased? 10 A. No. I couldn't tell you. 11 Q. Do you know who would be most 12 knowledgeable about that? 13 A. Probably the corporate president. 14 Q. You just know they have increased? 15 A. I -- yes. 16 Q. But you don't know by what grade 17 percentage? 18 A. No. 19 Q. Tell me a little bit about when 20 you started. 21 MR. CLARK: Objection to 22 form. 23 A. I was actually with the company 24 for a short time when I graduated from college</p>

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<p style="text-align: center;">Page 18</p> <p>1 before I went into my career choice at that 2 point, which was education, and did warehouse 3 work, learning the business and did some 4 accounting work. Then after many years, came 5 back and started serving as credit manager, 6 human resources. We are a small company and, 7 therefore, we wear many hats and develop into 8 positions.</p> <p>9 Q. When you say "small company," do 10 you know how you rank in the industry, if you 11 know?</p> <p>12 MR. CLARK: Objection to 13 form.</p> <p>14 A. I really don't have a clue. I 15 know we are the smallest in Ohio.</p> <p>16 Q. And do you know what your average 17 sales are in a given year?</p> <p>18 MR. CLARK: Objection. Form.</p> <p>19 A. No.</p> <p>20 Q. Do you know if they're in the 21 millions?</p> <p>22 MR. CLARK: Same objection.</p> <p>23 A. I -- I don't know.</p> <p>24 Q. You don't see the books?</p>	<p style="text-align: center;">Page 20</p> <p>1 president is Thomas Schoen, and it also says "DR 2 supervisor."</p> <p>3 Do you know what that stands for?</p> <p>4 A. Designated representative 5 supervisor. So he is my supervisor.</p> <p>6 Q. Okay. Is he everyone's 7 supervisor?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. There's no DR supervisor 10 he's subservient to I'm guessing?</p> <p>11 MR. CLARK: Objection to 12 form.</p> <p>13 A. Correct.</p> <p>14 Q. Now, underneath that is 15 secretary-treasurer. And who would that be?</p> <p>16 A. Jacquelyn Harbauer.</p> <p>17 Q. All right. And what relation 18 would that be to you?</p> <p>19 A. My mother.</p> <p>20 Q. Gotcha. And then that would be 21 your, obviously, uncle's sister?</p> <p>22 A. Correct.</p> <p>23 Q. All right. And then we have VP of 24 sales, Christopher Schoen?</p>
<p style="text-align: center;">Page 19</p> <p>1 A. I don't review the books, no. 2 Q. Fair enough. 3 All right. I do want to talk to 4 you -- I know you said it's a family business. 5 I want to kind of talk to you about the cast of 6 characters, the folks that work in the business, 7 okay? 8 So we're going to look at a 9 document. Specifically this is PSI-1010. 10 A. Okay. 11 MR. REINS: I have a hard 12 copy if you want one. 13 MR. CLARK: I appreciate it. 14 MR. REINS: So, Zach, if you 15 could kind of zoom in at the top 16 and we'll work our way down. All 17 right. Perfect. 18 BY MR. REINS: 19 Q. All right. So we're just learning 20 a little bit about your company today, so 21 obviously we've received some items in discovery 22 kind of telling us who's who and maybe you can 23 help elaborate on that. 24 Obviously you've mentioned the</p>	<p style="text-align: center;">Page 21</p> <p>1 A. Correct. 2 Q. What relation? 3 A. Cousin. 4 Q. Okay. And who is he the son of? 5 A. Tom. 6 Q. Okay. And do you know what -- and 7 forgive me. I skipped your mom. Do you know 8 what your mom does as a secretary and treasurer? 9 MR. CLARK: Objection to 10 form. 11 A. I -- I know she is overall 12 responsible for board minutes, you know, 13 financial, overseeing the accounting department, 14 controller, those types of things. 15 (Reporter clarification.) 16 A. Controller. Sorry. Controller. 17 And the licensing, regulatory. She's over 18 myself as well. 19 BY MR. REINS: 20 Q. Okay. And so the -- and I'm 21 sorry. When you said earlier you came back 22 after several years, what year was that? 23 A. That I came back? 24 Q. Yes, ma'am.</p>

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<p>Page 22</p> <p>1 A. I'm guessing it was 1996, '97. 2 Q. Okay. Probably best to finish up 3 your time. So when you first came back, what 4 was your position? 5 A. Credit manager. 6 Q. What did that mean? 7 A. I worked with collections, 8 accounts receivable and the controller. 9 Q. What's your educational 10 background? What was your degree in? 11 A. I have a Master's of Science in 12 administration, educational administration, and 13 a bachelor of education. 14 Q. Gotcha. And so when you finished 15 that first position, you transitioned into a new 16 one obviously?</p> <p>17 MR. CLARK: Objection to 18 form. 19 A. When I finished being credit 20 manager? 21 Q. Yes, ma'am. 22 A. I transitioned, yes, into more of 23 the vice president and was assisting the 24 secretary/treasurer with licensing,</p>	<p>Page 24</p> <p>1 A. Oh, longer than that. 2 Q. Okay. 3 A. I -- I know that -- as I said, as 4 the regulatory environments increased, so did 5 the development of the position, licensing and 6 all of that. 7 Q. So -- and you might not be able to 8 answer this. Before 2010 or after, if you know? 9 MR. CLARK: Objection to 10 form. 11 A. I couldn't say. It would be pure 12 guess. 13 Q. All right. Do you know how long 14 after you left the credit manager position you 15 got into regulatory services? 16 MR. CLARK: Objection to 17 form. 18 Q. Months, years? 19 A. I -- 20 MR. CLARK: Same objection. 21 Go ahead. 22 A. When I transitioned from one, I 23 had been out ill for a period of time, so when I 24 came back, the credit management position had</p>
<p>Page 23</p> <p>1 developmental for our VAWD certifications. As 2 the regulatory requirements have blossomed in 3 the last 20 years, the need to have a person 4 directly involved with that, is what I came 5 into. 6 I also do human resources, some -- 7 it's delegated responsibilities. Primarily I 8 deal with job descriptions and training. 9 Q. When you talk about your 10 regulatory position, is that that you are an 11 assistant, I guess, to your mother in that role? 12 A. Correct. 13 MR. CLARK: Objection to 14 form. 15 Q. When did you begin doing that? 16 A. When did I begin doing that? 17 Q. Yes, ma'am. 18 MR. CLARK: Objection to 19 form. 20 Q. You said as time went on -- 21 A. I -- I honestly don't remember when. 22 Q. Would it be longer than two, three years ago or --</p>	<p>Page 25</p> <p>1 been filled by another personnel, so I began to 2 work more closely with the corporate 3 secretary/treasurer and develop that. 4 Q. So I'm going to say this as 5 carefully as I can. I do not want to know 6 anything about your health condition whatsoever. 7 But given that you had a health issue, does 8 that -- do you know when that was, without 9 revealing anything about your health condition? 10 MR. CLARK: Objection to 11 form. 12 A. I'm guessing seven years ago. 13 Q. Okay. 14 A. But it -- in my -- that's to the 15 best of my recollection. 16 Q. And I appreciate that. 17 And I guess this would be a good 18 time to -- when you start -- when you got 19 transitioned into that role, can you tell me 20 specifically what your duties and 21 responsibilities were? 22 MR. CLARK: Objection to 23 form. 24 A. It began with getting our VAWD</p>

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<p style="text-align: center;">Page 26</p> <p>1 certification.</p> <p>2 Q. Your what? I'm sorry?</p> <p>3 A. VAWD, verified authorized</p> <p>4 wholesale distributor, verification through the</p> <p>5 National Association of Boards of Pharmacy.</p> <p>6 Q. What did that certification allow</p> <p>7 you to do?</p> <p>8 A. To sell in multiple states as that</p> <p>9 is a requirement for licensure.</p> <p>10 [REDACTED]</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 Q. So I'm going to ask you this</p> <p>19 question, but I want you to understand I know</p> <p>20 dates and times may be difficult for you. Just</p> <p>21 do the best you can, okay?</p> <p>22 Do you know when that</p> <p>23 certification was ultimately approved?</p> <p>24 MR. CLARK: Objection to</p>	<p style="text-align: center;">Page 28</p> <p>1 Q. Okay. That's wonderful.</p> <p>2 MR. CLARK: Before you ask</p> <p>3 the next question, did we lose</p> <p>4 power here?</p> <p>5 THE WITNESS: I have no</p> <p>6 screen.</p> <p>7 MR. REINS: I just hadn't</p> <p>8 talked about it in a while.</p> <p>9 MR. CLARK: I want to make</p> <p>10 sure we're up and running.</p> <p>11 MR. REINS: The power is</p> <p>12 still running.</p> <p>13 MR. CLARK: Okay.</p> <p>14 BY MR. REINS:</p> <p>15 Q. All right. So after that, you</p> <p>16 helped in that process, what other regulatory</p> <p>17 duties and responsibilities did you have, if</p> <p>18 any?</p> <p>19 MR. CLARK: Objection to</p> <p>20 form.</p> <p>21 A. I had responsibility to keep a</p> <p>22 knowledge base, if possible, of regulatory</p> <p>23 requirements, working with the licensures, so</p> <p>24 ensuring that we are compliant with all the</p>
<p style="text-align: center;">Page 27</p> <p>1 form.</p> <p>2 A. I believe nine or ten years ago,</p> <p>3 to the best of my recollection.</p> <p>4 Q. Okay. So when you came back after</p> <p>5 your health issue, was it already approved?</p> <p>6 A. No.</p> <p>7 Q. Okay. I'm not really a math guy,</p> <p>8 but I think we approximated that into about</p> <p>9 seven years?</p> <p>10 A. Seven years? Then I would have</p> <p>11 misspoken.</p> <p>12 Q. That's okay.</p> <p>13 A. I -- again, it's hard to recall.</p> <p>14 Q. Those are not points I'll be</p> <p>15 scoring today on math, so I promise you. So</p> <p>16 we're just trying -- that actually is a helpful</p> <p>17 process. So if we know that it was about ten or</p> <p>18 eleven years ago, do you know how long you</p> <p>19 worked on it before it was approved?</p> <p>20 MR. CLARK: Objection to</p> <p>21 form.</p> <p>22 A. I know the process was begun</p> <p>23 before I came back. The entire length of time,</p> <p>24 maybe a year.</p>	<p style="text-align: center;">Page 29</p> <p>1 regulations for each license, including DEA,</p> <p>2 being aware of governmental changes.</p> <p>3 Q. All right. Any other duties and</p> <p>4 responsibilities, other than what we've</p> <p>5 discussed so far, when you transitioned to your</p> <p>6 new role?</p> <p>7 MR. CLARK: Objection to</p> <p>8 form.</p> <p>9 Q. I think you touched on the human</p> <p>10 resource aspect as well, so I didn't know if</p> <p>11 there was anything else.</p> <p>12 A. Those are my primary</p> <p>13 responsibilities.</p> <p>14 Q. Okay. And you've held those</p> <p>15 consistently since the best you've approximated</p> <p>16 for us here today?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 MR. CLARK: Objection to</p> <p>20 form.</p> <p>21 Just give me a second to get</p> <p>22 my objection on --</p> <p>23 THE WITNESS: Yeah. I'm</p> <p>24 sorry.</p>

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<p style="text-align: center;">Page 30</p> <p>1 MR. CLARK: No problem. 2 You're doing fine. 3 --- 4 (PSI-Harbauer Exhibit 1 marked.) 5 --- 6 BY MR. REINS: 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> 	<p style="text-align: center;">Page 32</p> <p>1 anybody else that's part of the regulatory 2 division in the time period we've discussed? 3 MR. CLARK: Objection to 4 form. Misstates the testimony. 5 A. I think that many of our personnel 6 have to be aware of the rules and regulations. 7 Q. Sure. But how many are actually 8 designated in the regulatory department, besides 9 you and -- it is you and your mom, right? 10 A. My -- 11 MR. CLARK: Same objection. 12 Q. You can answer. 13 A. Tom also oversees so, you know. 14 Q. Okay. Anyone else? 15 A. No. 16 Q. All right. And here's where you 17 can educate me, because VP-IS Kirk Harbauer -- 18 A. Correct. 19 Q. -- he is your -- 20 A. Brother. 21 Q. -- brother. I see a lot of 22 report -- his name is involved in different 23 reporting and e-mails and letters and things. 24 Is he not involved in the regulatory process?</p>
<p>1 2 3</p> <p>4 Q. When you look at all of that, the 5 telemarketing staff, the customer service staff, 6 Chris, any of the other people that work with 7 him, Mr. Schoen -- I say Chris because he's -- 8 there's several Mr. Schoens. Do you know how 9 many people that would be, approximately? 10 MR. CLARK: Objection to 11 form. 12 A. My guess would be eight to ten. 13 Q. And then you've got the one and a 14 half person? You got -- 15 A. He's -- the half person is a 16 part-time buyer -- 17 Q. Okay. 18 A. -- and a part-time sales rep where 19 he would visit Michigan stores. And then we 20 have a gentleman who visits our Ohio stores. 21 Q. That's a good definition of half a 22 person. I got it. 23 We were talking about the 24 regulatory. There's you, your mom. Is there</p>	<p style="text-align: center;">Page 33</p> <p>1 MR. CLARK: Objection to 2 form. 3 A. His -- he carries -- he ensures 4 that the necessary reporting is sent, for 5 example, ARCCOS reporting, or there are states 6 that require we send in sales history of 7 controlled substances, so the computer 8 department -- well, Kirk. I should rephrase 9 that. Kirk will develop the necessary program 10 to do that. And so we say that he is involved 11 because of that purpose. 12 Q. But he actually just completes the 13 reporting -- 14 A. Technology. 15 MR. CLARK: Hold on. Let him 16 finish his question. 17 A. I apologize. 18 Q. No, that's okay. I think I might 19 have got it out there. 20 He's responsible for executing the 21 reporting necessary pursuant to the regulations, 22 safety rules? 23 MR. CLARK: Objection to 24 form.</p>

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<p style="text-align: right;">Page 34</p> <p>1 Go ahead.</p> <p>2 A. He gets the reports out.</p> <p>3 Q. Okay. Who has decided or who has</p> <p>4 made the decision as to how to report?</p> <p>5 MR. CLARK: Objection to</p> <p>6 form.</p> <p>7 Q. What to report, how to report.</p> <p>8 MR. CLARK: Same objection.</p> <p>9 A. It depends on the rules and</p> <p>10 regulations.</p> <p>11 Q. So let's start with that then.</p> <p>12 What rules and regulations are you obligated to</p> <p>13 follow as the regulatory -- what position is it,</p> <p>14 regulatory advisor?</p> <p>15 MR. CLARK: Objection to</p> <p>16 form.</p> <p>17 A. My title is VP admin and human</p> <p>18 resources and DR, designated representative.</p> <p>19 Q. So in order to comply with the</p> <p>20 rules, you need to know what they are, right?</p> <p>21 A. Are.</p> <p>22 Q. So what rules are you required to</p> <p>23 follow?</p> <p>24 A. All --</p>	<p style="text-align: right;">Page 36</p> <p>1 MR. CLARK: I just want to</p> <p>2 object to the extent it calls for a</p> <p>3 legal conclusion.</p> <p>4 MR. REINS: And I will</p> <p>5 recognize, because I read some of</p> <p>6 your prior depos, that that is well</p> <p>7 contemplated in any objections to</p> <p>8 form.</p> <p>9 MR. CLARK: Okay.</p> <p>10 MR. REINS: But you are</p> <p>11 welcome to state your objections as</p> <p>12 you see fit.</p> <p>13 A. Would you repeat the question,</p> <p>14 please?</p> <p>15 Q. Of course I will.</p> <p>16 MR. CLARK: Just to be clear,</p> <p>17 I have not been involved in any</p> <p>18 other depositions.</p> <p>19 MR. REINS: Oh, really? Oh,</p> <p>20 okay. I've seen that objection</p> <p>21 several times.</p> <p>22 BY MR. REINS:</p> <p>23 Q. I think the question that was</p> <p>24 posed to you is: Sitting here today, what do</p>
<p style="text-align: right;">Page 35</p> <p>1 MR. CLARK: Objection to</p> <p>2 form.</p> <p>3 A. All federal. With the state,</p> <p>4 local.</p> <p>5 Q. Have you reviewed all of those</p> <p>6 rules and regulations?</p> <p>7 MR. CLARK: Objection to</p> <p>8 form.</p> <p>9 Q. The ones that apply to your</p> <p>10 business, of course.</p> <p>11 A. Have I reviewed them all?</p> <p>12 Q. Yes.</p> <p>13 A. Honestly, I couldn't believe that</p> <p>14 it -- that was even possible. I would say no.</p> <p>15 I will say that I am aware of the requirements</p> <p>16 of many things.</p> <p>17 Q. What are you -- are you aware of</p> <p>18 the Controlled Substances Act?</p> <p>19 A. Yes.</p> <p>20 Q. What do you believe that obligates</p> <p>21 you to do or not do?</p> <p>22 MR. CLARK: Objection to</p> <p>23 form.</p> <p>24 A. I see it as --</p>	<p style="text-align: right;">Page 37</p> <p>1 you believe the Controlled Substances Act</p> <p>2 obligates your company to do or not to do?</p> <p>3 MR. CLARK: Same objection.</p> <p>4 A. I see the purpose of the act is to</p> <p>5 regulate the flow of pharmaceuticals throughout</p> <p>6 the industry. There are many requirements in</p> <p>7 monitoring, licensing, regulatory -- monitoring,</p> <p>8 licensing, reporting.</p> <p>9 Q. Do you know why these rules and</p> <p>10 regulations have come into play?</p> <p>11 MR. CLARK: Objection to</p> <p>12 form.</p> <p>13 A. I couldn't state the intent of</p> <p>14 them, but I -- I think it's to regulate the</p> <p>15 industry.</p> <p>16 Q. Do you know why the industry needs</p> <p>17 to be regulated?</p> <p>18 MR. CLARK: Same objection.</p> <p>19 A. As with most industries, there is</p> <p>20 always illegal activity involved, and so by</p> <p>21 regulating, I see it as an attempt to try to</p> <p>22 keep things in proper channels.</p> <p>23 Q. You understand that we're in the</p> <p>24 midst of an opioid crisis?</p>

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<p style="text-align: right;">Page 38</p> <p>1 MR. CLARK: Objection to 2 form. 3 Q. Correct? 4 A. I agree from what I have read and 5 heard on the news, that I believe there is an 6 opioid crisis. 7 Q. You understand and recognize it's 8 affecting all races, all genders, in this 9 country, correct? 10 MR. CLARK: Objection to 11 form. 12 A. It affects many people. 13 Q. Many communities in this country, 14 correct? 15 MR. CLARK: Same objection. 16 A. Yes. 17 Q. And it's found to be, some of the 18 drugs, specifically oxycodone, have been abused 19 heavily in this nation, correct? 20 MR. CLARK: Objection to 21 form. 22 A. I can't -- that's what the news 23 says. 24 Q. Do you not agree with that?</p>	<p style="text-align: right;">Page 40</p> <p>1 where I would get my information. 2 Q. Your company has not had meetings 3 on the addictive nature of a product that you're 4 distributing? 5 MR. CLARK: Objection to 6 form. Argumentative. 7 A. To my knowledge, we have not. 8 Q. Okay. I think we're on a new 9 title now. VP HR manager DR. Have we 10 covered -- I think we have -- all the duties and 11 responsibilities for which you hold? 12 A. Yes. 13 Q. All right. You're also vendor 14 verification. What does that mean? 15 A. Part of the requirements of VAWD 16 are to ensure that who we are purchasing from 17 and selling to are properly licensed, inspected, 18 and so I do verify all licenses of potential 19 vendors and maintain records on those. 20 Q. Assistant to the president, James 21 Schoen. What relation is he to the president? 22 A. Son. 23 Q. How does he assist his dad? 24 MR. CLARK: Objection to</p>
<p style="text-align: right;">Page 39</p> <p>1 MR. CLARK: Objection to 2 form. 3 A. I can't disagree or agree. I have 4 no personal knowledge of it. 5 Q. Sitting here today, as someone 6 who's involved in the regulatory safety rules 7 and employing those in your company for PSI, you 8 don't know one way or another whether we're -- 9 oxycodone is addictive? 10 MR. CLARK: Objection to 11 form. 12 A. Do I know if oxycodone is 13 addictive, is that what you just stated? 14 Q. Yes. Based on all the literature, 15 publications, congressional hearings, everything 16 that's available to you, do you know that? 17 MR. CLARK: Objection to 18 form. 19 A. I have been told that OxyContin is 20 addictive, yes. 21 Q. Who told you that? 22 MR. CLARK: Objection to 23 form. 24 A. That's from the news and -- that's</p>	<p style="text-align: right;">Page 41</p> <p>1 form. 2 A. I really couldn't tell you what he 3 does in that respect. 4 Q. Okay. Does he get a paycheck? 5 MR. CLARK: Objection to 6 form. 7 MR. REINS: Withdraw. 8 BY MR. REINS: 9 Q. Next we have -- and I'm not quite 10 sure what that position is, Robert Schoen, what 11 relation? 12 A. That's also a son of Tom. 13 Q. And what does that stand for? 14 A. Warehouse manager. 15 Q. Gotcha. And what are his duties 16 and responsibilities? 17 A. To oversee the warehouse. 18 Q. The warehouse is where all the -- 19 A. Product. 20 Q. Is kept? 21 So oversee it. Are there policies 22 and procedures that govern the warehouse, if you 23 know? 24 A. Yes.</p>

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<p style="text-align: center;">Page 42</p> <p>1 Q. Okay. As part of your position, 2 are you responsible for implementing and 3 revising policies and procedures within your 4 company?</p> <p>5 MR. CLARK: Objection to 6 form.</p> <p>7 A. I work with the development of the 8 policy in writing, along with Mr. Schoen, Tom 9 Schoen, to ensure that our policies are 10 compliant to rules and regs, and that the 11 procedures can best meet those.</p> <p>12 Q. It's you and Mr. Schoen, Thomas 13 Schoen, that do that --</p> <p>14 A. And --</p> <p>15 MR. CLARK: Hold on a second. 16 Let him finish the question.</p> <p>17 Q. Sorry. That's okay. I was done. 18 That's okay.</p> <p>19 MR. CLARK: Objection to 20 form.</p> <p>21 Can you read back the 22 question --</p> <p>23 A. Repeat that. I'm sorry.</p> <p>24 Q. No. You don't have to be. And</p>	<p style="text-align: center;">Page 44</p> <p>1 of narcotics, who would that be? 2 A. That would also include Jim 3 Schoen, Jim Schoen, the --</p> <p>4 Q. The assistant?</p> <p>5 A. He is the assistant, but he is -- 6 he also is the controlled substance handler, 7 Schedule II.</p> <p>8 Q. What does that -- we tried to talk 9 about his job a little bit ago, but I think --</p> <p>10 A. Well --</p> <p>11 MR. CLARK: Let him finish 12 his question.</p> <p>13 Q. Yeah. That's okay. That's how 14 it's going to work. Something will come to you. 15 It's not a gotcha game. So it's great when that 16 happens.</p> <p>17 So tell me -- now that we've 18 discussed that, tell me what exactly he does in 19 that position based on what you just described.</p> <p>20 MR. CLARK: Objection to 21 form.</p> <p>22 A. Jim is the one who monitors and 23 fills controlled substance orders. He's 24 responsible for knowing the customer,</p>
<p style="text-align: center;">Page 43</p> <p>1 remember my standing offer for breaks. Whenever 2 you get to that point, okay?</p> <p>3 A. I'm getting close.</p> <p>4 Q. Okay. We'll just finish this part 5 up, and then we'll go --</p> <p>6 A. Thank you.</p> <p>7 Q. -- unless you just give me the 8 look, okay?</p> <p>9 I believe the question was, in 10 regards to the development and revision of 11 policies and procedures specifically, who was 12 involved -- and I thought I understood you to 13 say yourself and Thomas Schoen --</p> <p>14 A. Okay.</p> <p>15 Q. -- but I may be incorrect.</p> <p>16 MR. CLARK: Objection to 17 form.</p> <p>18 A. And it would be all relevant 19 personnel. If it was a warehouse procedure, 20 warehouse manager. If it is sales or 21 purchasing, it -- relevant personnel.</p> <p>22 Q. How about when we're talking about 23 the Controlled Substances Act or the federal 24 regulations regarding shipping and/or diversion</p>	<p style="text-align: center;">Page 45</p> <p>1 maintaining education within the field.</p> <p>2 Q. So he would participate in the 3 development and/or revision of those policies 4 that touched those issues?</p> <p>5 A. Yes.</p> <p>6 MR. CLARK: Objection to 7 form.</p> <p>8 Q. Would he be the ultimate one to, 9 according to the federal regulations, stop a 10 shipment if it's "suspicious"?</p> <p>11 MR. CLARK: Objection to 12 form.</p> <p>13 Q. If you know.</p> <p>14 A. He would be part of the process.</p> <p>15 MR. REINS: Take a break?</p> <p>16 You want to take a break?</p> <p>17 MR. CLARK: Yes.</p> <p>18 THE WITNESS: Could I please?</p> <p>19 MR. REINS: Yeah, of course 20 you can.</p> <p>21 THE WITNESS: Thank you.</p> <p>22 MR. REINS: Yes, ma'am.</p> <p>23 THE VIDEOGRAPHER: We're 24 going off the record at 9:40 a.m.</p>

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<p style="text-align: center;">Page 46</p> <p>1 (Recess taken.)</p> <p>2 THE VIDEOGRAPHER: We're back</p> <p>3 on the record at 9:50.</p> <p>4 BY MR. REINS:</p> <p>5 Q. All right. Going back and looking</p> <p>6 at the exhibit here. I think we -- we have</p> <p>7 covered the warehouse manager, Mr. Robert</p> <p>8 Schoen. The next two I think are pretty</p> <p>9 self-explanatory.</p> <p>10 Director of purchasing, what does</p> <p>11 that mean?</p> <p>12 A. Our primary buyer.</p> <p>13 Q. Okay. Can you explain?</p> <p>14 A. John Cromly buys many of our lines</p> <p>15 of -- from the manufacturers and making sure we</p> <p>16 have product.</p> <p>17 Q. How does he do that, if you know?</p> <p>18 MR. CLARK: Objection to</p> <p>19 form.</p> <p>20 A. I know that he places -- you know,</p> <p>21 he looks at usage and he places the orders.</p> <p>22 Q. Okay. How many set of eyes do you</p> <p>23 think in the company looks at an order before it</p> <p>24 gets filled?</p>	<p style="text-align: center;">Page 48</p> <p>1 primary. Or the telemarketer or salesperson can</p> <p>2 enter the order directly into the computer.</p> <p>3 Q. Where does it go from there?</p> <p>4 MR. CLARK: Objection to</p> <p>5 form.</p> <p>6 A. It's either held or it's released</p> <p>7 to a pick slip.</p> <p>8 Q. Tell me -- a pink slip I think.</p> <p>9 A. Pick.</p> <p>10 MR. CLARK: Pick.</p> <p>11 Q. Pick slip. What is a pick slip?</p> <p>12 A. We are a manual wholesaler, so</p> <p>13 it's a piece of paper that has the products</p> <p>14 listed for our pullers to go to the shelves and</p> <p>15 get.</p> <p>16 Q. Okay. So it comes in -- so it</p> <p>17 would come through -- if they did it on the</p> <p>18 website, it would go -- so how would it get to</p> <p>19 the pullers?</p> <p>20 MR. CLARK: Objection to</p> <p>21 form.</p> <p>22 A. If the order -- if there's no</p> <p>23 reason to stop it, the order would be translated</p> <p>24 to a pick slip, piece of -- physical piece of</p>
<p style="text-align: center;">Page 47</p> <p>1 MR. CLARK: Objection to</p> <p>2 form.</p> <p>3 A. I couldn't say. It depends on how</p> <p>4 the order comes in.</p> <p>5 Q. Sure.</p> <p>6 A. It -- I couldn't say.</p> <p>7 Q. Multiple folks, fair to say?</p> <p>8 MR. CLARK: Objection to</p> <p>9 form.</p> <p>10 A. A few will see it. I mean, the --</p> <p>11 if it comes in via computer, it can be held, it</p> <p>12 can not be held. The person who pulls it sees</p> <p>13 the order. The person who checks it sees the</p> <p>14 order.</p> <p>15 Q. So if you get it on a computer, is</p> <p>16 it e-mailed? How do you get the order on a</p> <p>17 computer?</p> <p>18 MR. CLARK: Objection to</p> <p>19 form.</p> <p>20 Q. I'll rephrase.</p> <p>21 You mentioned computer. You might</p> <p>22 get an order. Please tell me how that works.</p> <p>23 A. EDI. We have a website. They can</p> <p>24 buy directly on the website. That's our</p>	<p style="text-align: center;">Page 49</p> <p>1 paper, and the pullers take the paper with a</p> <p>2 cart and go and pull the product.</p> <p>3 Q. Who is the one that makes the</p> <p>4 decision whether to stop it?</p> <p>5 MR. CLARK: Objection to</p> <p>6 form.</p> 

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1 MR. CLARK: Good job.
2 MR. REINS: Yeah.
3 BY MR. REINS:
4 Q. All right. So before I leave you
5 here today -- this is probably not going to
6 break your heart -- those would be the better
7 folks to ask about the threshold limits and the
8 criteria?
9 A. In my opinion, yes.
10 Q. Fair.
11 Let's talk about the other things,
12 though, the unusual size, unusual frequency.
13 And probably not a bad time, because that
14 language sounds kind of familiar for me -- to
15 me -- to pull up PSI-103.
16 This look familiar?
17 MR. CLARK: Objection to
18 form.
19 ---
20 (PSI-Harbauer Exhibit 2 marked.)
21 ---
22 BY MR. REINS:
23 Q. So this is going to be -- let me
24 withdraw that.

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1 Ma'am, we're looking now at -- and
2 this will be Plaintiff's Exhibit Number 2 to the
3 deposition. This is the Code of Federal
4 Regulations, which you identified earlier,
5 Subsection 1301.74, specifically Subsection (b).
6 And we'll be talking about the
7 last sentence there, "Suspicious orders include
8 orders of unusual size, orders deviating
9 substantially from a normal pattern, and orders
10 of unusual frequency," kind of the language you
11 just used, if not identical, right?
12 MR. CLARK: Objection to
13 form.
14 A. Similar language.
15 Q. Fair.

19 Q. No. Don't be.
20 MR. CLARK: You've been doing
21 well so far.
22 MR. REINS: Yeah. I mean,
23 that's an amazingly long stretch
24 for a rookie.

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<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> 	<p>Page 54</p> <p>1 type of mathematical formula that would trigger 2 a review, if you know?</p> <p>3 MR. CLARK: Objection to 4 form.</p> <p>5 A. I don't know.</p> <p>6 Q. Okay. Would that be a Jim 7 question?</p> <p>8 A. Probably.</p> <p>9 Q. Okay.</p> <p>10 A. Or Kirk.</p> <p>11 Q. Or Kirk.</p> <p>12 And the follow-up to that question 13 is, if you know, do you have to exceed the 14 threshold in order for this review to take 15 place?</p> <p>16 MR. CLARK: Objection to 17 form.</p> <p>18 Q. If you know.</p> <p>19 A. I don't know.</p> <p>20 Q. Okay. Going back now to what is 21 Exhibit 1, which is PSI-1010, and it's actually 22 going to be the third page of that document.</p> <p>23 So now we're looking at a -- do 24 you know what this is, let me just say?</p> <p>Page 55</p> <p>1 Q. And that's two really good points. 2 Let me start with the first one. The first, 3 does Jim see every order?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. The due diligence that you 6 spoke to me about, because your uncle had made 7 reference that you might be someone that kind of 8 is the record keeper or keeping of certain 9 documents. Are there documents to reflect the 10 due diligence was actually done?</p> <p>11 MR. CLARK: Objection to 12 form.</p> <p>13 A. The controlled substance 14 questionnaire is there. I don't do the actual 15 in-depth investigation. That's Jim Schoen, and 16 so you would have to ask him.</p> <p>17 Q. And that's fair. You'll never 18 hurt my feelings if you say that. Don't abuse 19 it, though, just because you want to leave here 20 today.</p> <p>21 The -- understanding everything 22 you just said, is there not a trigger in the 23 system, if you know, that if there is a certain 24 percentage of an increase in an order or certain</p> <p>Page 57</p> <p>1 A. Yes.</p> <p>2 Q. What is it?</p> <p>3 A. It's an organizational chart of 4 the company.</p> <p>5 Q. Yes, ma'am. And so we've got at 6 the top the board of directors, which is your 7 uncle and your mother; is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. Are they the only two board 10 members?</p> <p>11 A. They're the officers of the 12 company and the board members.</p> <p>13 Q. Okay. Are there any other board 14 members, if you know?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. Okay.</p> <p>17 MR. CLARK: Lance, before you 18 go on --</p> <p>19 MR. REINS: Sure.</p> <p>20 MR. CLARK: -- can I ask a 21 housekeeping question?</p> <p>22 MR. REINS: Yeah.</p> <p>23 MR. CLARK: The document has 24 two different Bates numbers and</p>
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<p style="text-align: right;">Page 58</p> <p>1 you're referring to the one up top. 2 MR. REINS: I am. 3 MR. CLARK: I'm not sure 4 where that comes from. 5 MR. REINS: Yeah. So we have 6 internal numbers. I'm happy to use 7 the other one. I can identify it 8 for Zach, and then we can use the 9 other one for the record as well. 10 MR. CLARK: If we can just 11 clarify, just so if we're looking 12 back at exhibits -- 13 MR. REINS: Absolutely. 14 MR. CLARK: -- I'll know 15 we'll have the exhibits. 16 MR. REINS: So to be clear, 17 those are your Bates numbers on the 18 bottom, correct? 19 MR. CLARK: Correct. 20 MR. REINS: So Exhibit No. 1 21 is Bates numbered PSI-145 through 22 147. We're looking at 147 right 23 now. 24 MR. CLARK: Thank you.</p>	<p style="text-align: right;">Page 60</p> <p>1 MR. CLARK: Same objection. 2 A. You have to categorize, so that's 3 how they broke it down. 4 Q. You do report directly to your 5 mother? 6 A. And to Tom. 7 Q. And to Tom. Okay. And then 8 Mr. Buck we've kind of talked about -- have we 9 talked about Mr. Buck's position? Controller. 10 No, I don't think we did. 11 What's his position? 12 A. He oversees the accounting 13 department and controller AP. 14 Q. Okay. All right. Let me just 15 look and see if there's anything else. I think 16 we've talked about the other folks for the most 17 part. 18 Order checker, what do those folks 19 do? 20 MR. CLARK: Objection to 21 form. 22 Q. Do you see them there in the 23 middle? 24 A. When an order has been manually</p>
<p style="text-align: right;">Page 59</p> <p>1 MR. REINS: Yeah, of course. 2 BY MR. REINS: 3 Q. And then obviously underneath 4 that -- and we're not going over the things 5 we've already established, but under Mr. Schoen, 6 Thomas Schoen, that is, there are several 7 positions, and then I think you did this -- it 8 was helpful. You've already kind of covered 9 this, which is, you're on your -- and I don't 10 mean this lightly. I mean it's your mother, 11 Ms. Harbauer's side of the chart; is that right? 12 A. Correct. 13 Q. And what do we call -- that right 14 side of the chart where you're under and 15 Mr. Buck is under, is this more the regulatory 16 side then? 17 MR. CLARK: Objection to 18 form. 19 Q. Or you could characterize it some 20 other way if it's more appropriate. 21 A. It really isn't the regulatory 22 side. It has to do more with secretarial and 23 treasurer. 24 Q. Chain of command, right, I guess?</p>	<p style="text-align: right;">Page 61</p> <p>1 pulled, it's sent down the run. 2 (Reporter clarification.) 3 A. The pick slip is scanned into the 4 computer with a bar code, and then each product 5 bar code is scanned to verify accuracy of the 6 order fulfillment. 7 BY MR. REINS: 8 Q. Got it. 9 Fleet manager? 10 A. We deliver locally with our own 11 set of cars. He's responsible for overseeing 12 vehicles. 13 Q. Okay. The other states, how do 14 you get the drugs there? 15 MR. CLARK: Objection to 16 form. 17 Q. The other states, how do you get 18 the products there? I'm sorry. 19 A. Common carrier. 20 MR. CLARK: Same objection. 21 Go ahead. 22 A. Common carrier. 23 Q. Okay. All right. Thank you. I 24 think we're done with this one. I'll hand these</p>

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1 over so I don't misplace them. 2 We did take your uncle's 3 deposition. He was actually specifically 4 delegated -- designated as a 30(b) 5 representative to speak on behalf of the 6 company. I'd like to look at, if we could, from 7 that deposition, PSI-1006, page 66. 8 Starting at line 11. His 9 testimony was -- and going to line 21. Yes. 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 62 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 64 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

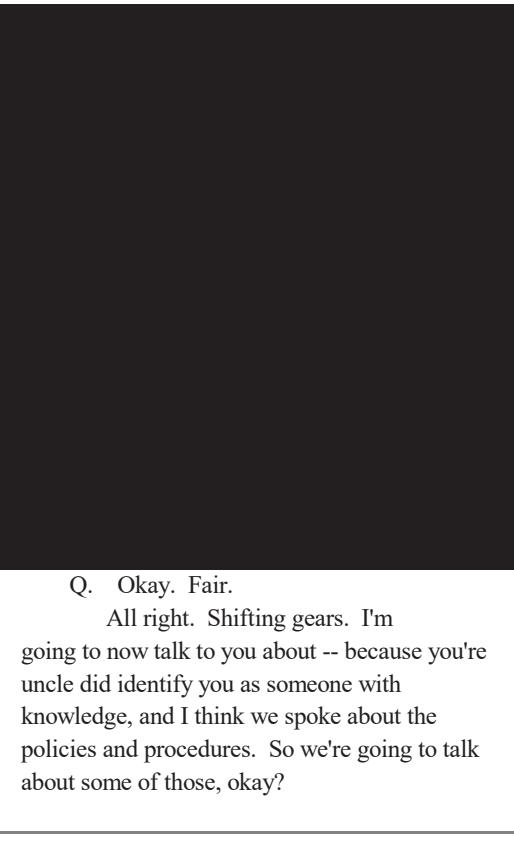
Q. Would you be -- I get one shot with you. So should I -- would he be more appropriate to ask than yourself, based on what you've told me already?

A. As I don't -- I do not personally deal with orders.

Q. And that's fair. I hope you understand I just have to -- if I don't ask you a question, I have to establish why I didn't. So ...

Now, sitting here today, we'll look at the same deposition, page 150, starting on line 11 going to line 17. Again, this is Mr. Schoen.

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<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> 	<p>Page 66</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17</p>  <p>Q. Okay. Fair. All right. Shifting gears. I'm going to now talk to you about -- because you're uncle did identify you as someone with knowledge, and I think we spoke about the policies and procedures. So we're going to talk about some of those, okay?</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> 
	<p>Page 68</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17</p>  <p>A. Yes. Q. We are going to look at -- MR. REINS: So, Zach, for your purposes, PSI-4040. For record purposes, PSI-648. And, folks, I have hard copies. If anybody wants one, just let me know, but -- Q. All right. So we're -- MR. CLARK: I'll take a hard copy. MR. REINS: Oh, absolutely. MR. CLARK: Thank you.</p> <p>BY MR. REINS:</p> <p>Q. So we are going to talk here about -- this one is called Prescription Supply, Inc. This is Inventory Controls, and obviously that's the document name. And then underneath it says "Document control number: WP-1." Do you know what that is indicative of?</p> <p>A. Warehouse procedure 1.</p> <p>Q. Gotcha. And forgive me. I don't believe we have it, but if we have, I apologize,</p>

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<p style="text-align: right;">Page 70</p> <p>1 but -- so obviously there are warehouse policies 2 and procedures. Do you know how many there are? 3 MR. CLARK: Objection. Form. 4 Q. Let me ask a better question. 5 There's a table of contents, correct? 6 MR. CLARK: Same objection. 7 A. All the policies and -- the 8 written policies and procedures we have are in 9 the documents that have been provided. 10 Q. Just to cover myself, there are 11 warehouse policies and procedures. Are there 12 other department policies and procedures? 13 MR. CLARK: Same objection. 14 A. For example, human resources, HR1, 15 2, or 3, background checks, those types of 16 things. 17 Q. Got it. 18 A. So the control number was placed 19 simply for organizational purposes. 20 Q. What do you mean? 21 A. The document -- so that -- it was 22 easier to reference. 23 Q. How many WPs are there? 24 A. I believe 13 or 14.</p>	<p style="text-align: right;">Page 72</p> <p>1 mean it wasn't reviewed. 2 Q. Gotcha. So it was reviewed 3 annually but the first time it was revised was 4 2008? 5 A. Correct. 6 MR. CLARK: Objection to 7 form. Give me a second. 8 THE WITNESS: Yes. Thank 9 you. 10 MR. REINS: Got it. 11 I'm going to -- if there 12 isn't a request out there -- and 13 that would be my ignorance -- but I 14 will simply put and make it known 15 that we're going to want those, 16 whatever is available in the cloud, 17 to try to determine the revisions 18 that have been made historically, 19 okay? 20 MR. CLARK: We'll take it 21 under advisement. 22 MR. REINS: Sure. Yeah. I 23 know you're not agreeing, but I 24 guess finding out what's out there</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. And those have developed over the 2 years? 3 A. Correct. 4 Q. For instance, this one was -- the 5 effective date is June 2000, meaning that's when 6 it first became -- came into effect, correct? 7 A. Correct. 8 Q. Now, if we wanted to see -- 9 there's a number of revision dates there. If we 10 wanted to know what was revised specifically in 11 accordance with a particular date, do you have 12 the older versions so that we can compare to see 13 what was added and/or edited? 14 MR. CLARK: Objection to 15 form. 16 A. There may be some if it was saved 17 to the cloud. And all documents were not always 18 saved to the cloud originally back then. The 19 revision dates coincide with annual reviews. 20 Q. Well, you say "annual reviews," 21 but there's not a revision date until 2008, 22 which would be eight after it was 23 created, correct? 24 A. A revision date. That doesn't</p>	<p style="text-align: right;">Page 73</p> <p>1 is going to be the first step. 2 BY MR. REINS: 3 Q. All right. So this policy says, 4 "Prescription Supply, Inc. will monitor 5 inventory for cyclical accounts." 6 What does that mean? 7 A. We do inventory checks on lines on 8 a regular basis so that we are not overstocking 9 product. So we do counts -- they're cyclical in 10 that they're every month or every two months or 11 whatever. 12 Q. Okay. Suspicious purchases and 13 losses, I think we've covered that as best we 14 can. 15 Theft or otherwise missing 16 products.</p> 

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Q. Okay.

MR. CLARK: Just go off the record for one second.

MR. REINS: Sure.

(Brief off-record discussion.)

MR. REINS: Are we off or on?

THE VIDEOGRAPHER: I need --

MR. REINS: That's okay. No, no. We'll stay on.

BY MR. REINS:

Q. And this might be my ignorance.

Do you have more than one uncle in the business?

A. No.

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<p style="text-align: center;">Page 78</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: center;">Page 80</p> <p>1 that -- in fairness to you, I know what this 2 says, but you've testified here today honestly, 3 correct? 4 A. Absolutely. 5 Q. So meaning -- and what I mean by 6 that is, even though it says your position, 7 you've really elaborated for us the folks that 8 are truly involved in maintaining these records, 9 correct? 10 MR. CLARK: Objection to 11 form. 12 A. They are also -- yeah. They're -- 13 they are involved in the process, yes. 14 Q. Heavily involved, respectfully? 15 MR. CLARK: Same objection. 16 A. I would agree with that. 17 Q. Okay. We saw the quote, and you 18 agreed with it, from your uncle's deposition 19 that -- regarding the shipping requirement or 20 the prevention of shipping in certain instances. 21 I have a hard copy of this document just so you 22 can take a look at it. 23 I don't see anything in this 24 policy and procedure -- and I'm not here to rush</p> <p>1 2 3 4 5 6 Q. "DR" -- this is the third full 7 paragraph, "DR/DR supervisor shall jointly 8 review all reports and information approving 9 necessary changes, formulating and carrying out 10 all internal investigations, recommending and 11 establishing necessary procedural changes, 12 notifying all applicable agencies, which are 13 identified therein, storage of records as 14 required by law for at least six years." 15 Again, that would be Jim, Kirk, 16 correct? 17 MR. CLARK: Objection to 18 form. 19 A. It says "DR/DR supervisor." I'm 20 not clear on your question. 21 Q. Who is it referring to, the DR/DR 22 supervisor? 23 A. Tom and myself. 24 Q. Okay. But I think we've covered</p>
	<p style="text-align: center;">Page 81</p> <p>1 you, so take -- I'm sure you've seen this 2 before, this policy? 3 A. I have. 4 Q. Okay. Maybe even in preparation 5 for today. So my question to you is, I did not 6 see anything in here regarding the shipping 7 requirement. 8 MR. CLARK: Objection to 9 form. 10 Q. First question is, am I correct? 11 MR. CLARK: Same objection. 12 A. The shipping requirement? 13 Q. Meaning stopping orders from being 14 shipped for unusual activity, "suspicious 15 orders." 16 MR. CLARK: Objection to 17 form. 18 A. I would have to reread this 19 thoroughly. I believe more specifically it's 20 covered under a different procedure. 21 Q. And that was going to be my next 22 question. Do you know what procedure that would 23 be? 24 MR. CLARK: Objection to</p>

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<p style="text-align: right;">Page 82</p> <p>1 form.</p> <p>2 A. I believe it's the controlled</p> <p>3 substance.</p> <p>4 Q. Okay.</p> <p>5 A. I don't recall the number,</p> <p>6 document control number.</p> <p>7 Q. We'll get there. I think I have</p> <p>8 that one. So my -- let me just finish up with</p> <p>9 this one.</p> <p>10 Was there any policies and</p> <p>11 procedures dealing with these issues that are</p> <p>12 dealt with in here, suspicious orders,</p> <p>13 reporting, things of that nature, before June of</p> <p>14 2000?</p> <p>15 MR. CLARK: Objection to</p> <p>16 form.</p> <p>17 A. There were no written policies.</p> <p>18 Q. Okay. Were there non-written</p> <p>19 ones?</p> <p>20 MR. CLARK: Same objection.</p> <p>21 Q. If you know.</p> <p>22 A. I believe so, because we -- again,</p> <p>23 I'm not filling the orders, so I --</p> <p>24 Q. Okay. Fair enough.</p>	<p style="text-align: right;">Page 84</p> <p>1 deposition, this is 1006, page 155, line 12. He</p> <p>2 was asked the question, specifically your uncle,</p> <p>3 in the deposition:</p> <p>4 "Do you know if Prescription</p> <p>5 Supply has maintained copies from the original</p> <p>6 of June of 2000?"</p> <p>7 "I don't know.</p> <p>8 "Who would be the best person at</p> <p>9 Prescription Supply to ask. Any idea?</p> <p>10 "Well, yeah. I mean the --</p> <p>11 "And what I'm looking for, is</p> <p>12 there someone that would just deal with this</p> <p>13 administrative stuff, that may be --</p> <p>14 Answer, "Candy would have -- Candy</p> <p>15 Harbauer would have probably been doing most of</p> <p>16 this."</p> <p>17 You've testified to the best of</p> <p>18 your abilities as to what you recall, correct?</p> <p>19 MR. CLARK: Objection to the</p> <p>20 preamble.</p> <p>21 Go on.</p> <p>22 Q. Are you Candy?</p> <p>23 A. I am.</p> <p>24 Q. Okay. Fair enough.</p>
<p style="text-align: right;">Page 83</p> <p>1 MR. CLARK: Are you finished?</p> <p>2 Were you done?</p> <p>3 THE WITNESS: Yeah.</p> <p>4 BY MR. REINS:</p> <p>5 Q. But you're not aware of any</p> <p>6 written procedures prior to this one, correct?</p> <p>7 MR. CLARK: Objection to</p> <p>8 form.</p> <p>9 A. That is correct.</p> <p>10 Q. And if I wanted to -- given the</p> <p>11 time frame you told me you came back, you're not</p> <p>12 the one to ask if there are policies that are</p> <p>13 unwritten, correct?</p> <p>14 MR. CLARK: Same objection.</p> <p>15 A. Tom and Jackie -- Tom -- well, Tom</p> <p>16 primarily would -- is the one.</p> <p>17 Q. Okay.</p> <p>18 MR. REINS: We'll make that</p> <p>19 Exhibit 3.</p> <p>20 ---</p> <p>21 (PSI-Harbauer Exhibit 3 marked.)</p> <p>22 ---</p> <p>23 BY MR. REINS:</p> <p>24 Q. So if we go back to his</p>	<p style="text-align: right;">Page 85</p> <p>1 All right. I do want to talk</p> <p>2 about -- there's -- the next policy and</p> <p>3 procedure.</p> <p>4 MR. REINS: And this is going</p> <p>5 to be, Zach, for you, this is PSI</p> <p>6 1007.</p> <p>7 For record purposes, it's PSI</p> <p>8 653.</p> <p>9 BY MR. REINS:</p> <p>10 Q. All right. And here's the one I</p> <p>11 think we're talking about, controlled</p> <p>12 substances. And you said, I think there's</p> <p>13 another one that deals with that, right? The</p> <p>14 issue of the shipment issue, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Now, I'm going to -- this is a</p> <p>17 short one. So I'm going to give you a hard</p> <p>18 copy.</p> <p>19 A. Thank you.</p> <p>20 Q. You're welcome.</p> <p>21 This will be Plaintiff's</p> <p>22 Exhibit 4. And correct me if I'm wrong. I</p> <p>23 don't see it in -- anything about shipping or</p> <p>24 stopping shipments regarding suspicious orders</p>

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<p>1 in here?</p> <p>2 A. I -- as I quickly scan this, I 3 concur it's not written there.</p> <p>4 Q. Okay.</p> <p>5 A. I know it's written. I just can't 6 tell you where.</p> <p>7 Q. I'll just put on the record that 8 if you have a policy that deals with that, if 9 you could produce it to us.</p> <p>10 Now, there is one we're going 11 to -- there's one more we're talking about, 12 which we'll talk about it in a minute. But 13 these were all the ones that were in effect in 14 2000, correct?</p> <p>15 MR. CLARK: Objection to 16 form.</p> <p>17 A. These were written --</p> <p>18 Q. Yes.</p> <p>19 A. -- in 2000.</p> <p>20 Q. Okay. And this is WP-2, so this 21 would be the warehouse policy number 2, correct?</p> <p>22 A. Correct.</p> <p>23 Q. I think it kind of touches on what 24 we just went over, correct, the other policy,</p>	<p>1 Q. Okay.</p> <p>2 A. -- of orders of interest. The 3 threshold system stops orders.</p> <p>4 Q. Okay. Do you know -- other than 5 the reporting that Kirk did, are you aware of 6 any other documents that were created regarding 7 potential concerns in regarding to ordering?</p> <p>8 MR. CLARK: Objection to 9 form.</p> <p>10 A. Can you explain your question a 11 little more for me.</p> <p>12 Q. Yeah. Of course. Are there -- 13 were there any other documents generated as a 14 result of what we just read, if you know?</p> <p>15 MR. CLARK: Same objection.</p> <p>16 A. The variance reports, you'd have 17 to ask -- because I'm not dealing with it. I 18 know we have other forms that are used by Jim 19 Schoen.</p> <p>20 Q. Okay. That is exactly what I was 21 trying to ask you, so thank you.</p> <p>22 That's Exhibit Number 4.</p> <p>23 ---</p> <p>24 (PSI-Harbauer Exhibit 4 marked.)</p>
<p style="text-align: center;">Page 87</p> <p>1 for the most part?</p> <p>2 MR. CLARK: Objection. Form.</p> <p>3 A. I don't understand your question.</p> <p>4 Q. Let me withdraw it and rephrase.</p> <p>5 Under "Responsibilities," third 6 paragraph, it says, "IT manager shall compile 7 reports monthly regarding purchases of 8 controlled substances, threshold limits and 9 suspicious order monitoring."</p> <p>10 Next paragraph, "DR/DR 11 supervisor" -- that's you, and your uncle, 12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. -- "shall review all relevant 15 purchase and sales reports, consult with IT 16 manager for necessary changes and handle any 17 concerns or problems as they arise."</p> <p>18 If he saw something suspicious or 19 if he saw an order of concern, he should have 20 advised you, correct?</p> <p>21 MR. CLARK: Objection to 22 form.</p> <p>23 A. When Kirk was doing the variance 24 reports, yes, he did advise Tom of concerns --</p>	<p style="text-align: center;">Page 89</p> <p>1 ---</p> <p>2 BY MR. REINS:</p> <p>3 Q. Same question, just to finish up 4 on that policy, whether there were policies 5 regarding that particular issues covered in 6 there before 2000, you would be -- you're not 7 aware of any written policies, correct?</p> <p>8 MR. CLARK: Objection to 9 form.</p> <p>10 A. I am not aware of any written 11 policies prior to that.</p> <p>12 Q. Okay. We'll move on to another 13 policy that has been produced to us. This might 14 be the one you were thinking of. It's called 15 "The REMS do not ship program."</p> <p>16 I'm going to hand that to you so 17 you have a hard copy. This will be Plaintiffs' 18 Exhibit Number 5.</p> <p>19 ---</p> <p>20 (PSI-Harbauer Exhibit 5 marked.)</p> <p>21 ---</p> <p>22 BY MR. REINS:</p> <p>23 Q. Take a moment and look it over. 24 And I'm just going to level with you. I did not</p>

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 90
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 92
	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

9 Were you involved in the
10 investigation by the Ohio State Board of
11 Pharmacy?

12 MR. CLARK: Objection to
13 form.

14 A. Involved in what way?

15 Q. That's what I want to know. You
16 either were or you weren't. I have the reports.
17 I just didn't know if you were personally
18 involved in that. The investigation of it, the
19 due diligence, the working with the state,
20 any -- I don't know the answer to it, so ...

21 MR. CLARK: Objection to
22 form.

23 A. I guess I need to clarify. Are
24 you talking about the initial one that was in

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<p>1 spring, or the October one.</p> <p>2 Q. Let's take them one at a time.</p> <p>3 A. Okay.</p> <p>4 Q. The one in spring of what year?</p> <p>5 A. Was it 2017, I believe?</p> <p>6 Q. Right.</p> <p>7 A. I think --</p> <p>8 Q. Do you -- so go ahead. Yes,</p> <p>9 ma'am. Were you involved in that one? Sorry.</p> <p>10 A. I was asked to present documents</p> <p>11 of policies and procedures. I was asked</p> <p>12 information about continuing education. As I</p> <p>13 recall, that's predominantly -- I was basically</p> <p>14 pulled in and out.</p> <p>15 Q. Okay. Limited involvement?</p> <p>16 A. Yes.</p> <p>17 Q. Specifically regarding the</p> <p>18 policies?</p> <p>19 A. Correct.</p> <p>20 MR. CLARK: Objection to</p> <p>21 form.</p> <p>22 Q. Were there policies that you</p> <p>23 provided to them that we haven't looked at</p> <p>24 today?</p>	<p>1 A. In the spring?</p> <p>2 Q. The one you were just speaking of.</p> <p>3 A. I believe they were just coming in</p> <p>4 for a routine inspection. They had not been</p> <p>5 there since we moved into the building.</p> <p>6 Q. All right. And then when was the</p> <p>7 second one that you were referencing?</p> <p>8 MR. CLARK: Objection to</p> <p>9 form.</p> <p>10 A. We -- in the fall, we received a</p> <p>11 investigation, I guess is the word. They were</p> <p>12 requesting information about some specific</p> <p>13 pharmacies.</p> <p>14 Q. Do you know what the outcome of</p> <p>15 that investigation -- well, first of all, were</p> <p>16 you involved in that investigation?</p> <p>17 MR. CLARK: Objection to</p> <p>18 form.</p> <p>19 A. What I did was to basically</p> <p>20 compile the information, type the responses and</p> <p>21 submit them.</p> <p>22 Q. You typed them?</p> <p>23 MR. CLARK: Objection to</p> <p>24 form.</p>
<p style="text-align: center;">Page 95</p> <p>1 MR. CLARK: Objection to</p> <p>2 form.</p> <p>3 A. You have all our policies.</p> <p>4 Q. Okay. But did you speak with them</p> <p>5 about any policies that we didn't talk about</p> <p>6 here today?</p> <p>7 MR. CLARK: Objection to</p> <p>8 form.</p> <p>9 A. I do not recall. I do not believe</p> <p>10 so.</p> <p>11 Q. Are there separate policies and</p> <p>12 procedures regarding the compliance of the state</p> <p>13 regulations versus the federal regulations, are</p> <p>14 there -- or should they be compiled in both?</p> <p>15 MR. CLARK: Objection to</p> <p>16 form.</p> <p>17 A. You have all the policies and</p> <p>18 everything is one --</p> <p>19 Q. Policy?</p> <p>20 A. -- policy.</p> <p>21 Q. Okay. Do you know what they were</p> <p>22 investigating in the spring?</p> <p>23 MR. CLARK: Objection to</p> <p>24 form.</p>	<p style="text-align: center;">Page 97</p> <p>1 Q. I'm sorry. You were the one who</p> <p>2 actually responded, or was it Tom?</p> <p>3 MR. CLARK: Same objection.</p> <p>4 A. As a small company, we interface.</p> <p>5 Q. Okay.</p> <p>6 A. And so it's all together. I mean,</p> <p>7 we -- we talk about it. We formulate it. I do</p> <p>8 the physical typing. He reviews.</p> <p>9 Q. Okay. Did you verify the</p> <p>10 information before you typed it?</p> <p>11 MR. CLARK: Objection to</p> <p>12 form.</p> <p>13 A. I received the information from</p> <p>14 sales history, reporting that they pulled up, or</p> <p>15 from Jim Schoen and his information, and from</p> <p>16 Tom.</p> <p>17 Q. Gotcha. So you were more of a</p> <p>18 facilitator of the information, not the</p> <p>19 originator, so to speak?</p> <p>20 A. That's a fair statement.</p> <p>21 Q. Okay. Do you know what the</p> <p>22 outcome was of that?</p> <p>23 MR. CLARK: Objection to</p> <p>24 form.</p>

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1 A. I understand that they replied 2 back, and then my assumption and my opinion was 3 that -- that there were no -- they understood 4 what the explanations were and it was 5 satisfactory because there was no responses 6 after that.	1 2 3 4 5 6
7 Q. Do you know that to be true, 8 meaning, did you ever see any documentation 9 either clearing the company or finding no 10 deficiencies?	7 8 9 10
11 MR. CLARK: Objection to 12 form.	11 12
13 Q. Meaning -- no disrespect, but 14 there might have been something that came 15 through the course of correspondence that you 16 may not have seen, for whatever reason. But 17 have you ever seen anything in writing clearing 18 the company?	13 14 15 16 17 18
19 MR. CLARK: Objection to 20 form.	19 20
21 A. Boy. I honestly can't tell you 22 whether there was a final e-mail that said thank 23 you very much. You know, that's very probable, 24 but I couldn't swear to it one way or the other.	21 22 23 24
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1 Q. Fair. 2 A. I know -- that's fine.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

26 (Pages 98 to 101)

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7 Q. And I had a feeling, I'm going to
8 take those back. And I will attach not -- well,
9 yeah, I will attach it so we know what we have
10 looked at.

11 MR. CLARK: When you have a
12 good moment to break, I'd like to
13 take another five minutes.

14 MR. REINS: Yeah. I'll tell
15 you, though, I'm getting -- I'm
16 almost done, for what it's worth.

17 MR. CLARK: Can we still do a
18 five-minute break?

19 MR. REINS: Oh, yeah, of
20 course. Let's do it now.

21 MR. CLARK: Okay. Good.

22 THE VIDEOGRAPHER: We're
23 going off the record at 10:45.
24 (Recess taken.)

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1 THE VIDEOGRAPHER: We're back
2 on the record at 10:53.

3 BY MR. REINS:

21 MR. CLARK: Hold on a second.
22 Let him finish.

23 Objection to form.

24 Q. So I think -- and this is -- I

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1 should have said this a while ago. It's not
2 just let me finish. It's your attorney wants to
3 object potentially.

4 A. I understand.

5 Q. So it's kind of a me finish and a
6 pause and then answer, so ... and that's my
7 fault. I should have said that before.

8 There's no way you remember my
9 question, so let me go ahead and rephrase it.

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Q. All right. I'm going to show you
now --

MR. REINS: This is going to
be, Zach, PSI-301. Record
purposes -- no, we're going to go
with that. That's a real long
number. It will ultimately be
Exhibit Number 7.

(PSI-Harbauer Exhibit 7 marked.)

BY MR. REINS:

Q. You're free to -- I'll give you a
hard copy.

A. Thank you.

Q. All right. So we're going to now
look at -- and I'll tell you a little bit of
background, because you're going to say, "Why am
I looking at this?"

This document was specifically

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<p style="text-align: center;">Page 106</p> <p>1 mailed out to all of the distributors. It's 2 been my understanding, stipulated, that PSI also 3 received one of these, but you all don't have a 4 copy anymore so we're using this one as a go by 5 because we believe the language is standard, 6 okay?</p> <p>7 A. I accept that.</p> <p>8 Q. Okay. Fair enough.</p> <p>9 MR. CLARK: I object to the 10 form. But go ahead.</p> <p>11 Q. Hopefully I didn't misstate that.</p> <p>12 So this is going to be dated 13 September 27, 2006, and this is going to be 14 basically from the Department of -- I'm sorry. 15 U.S. Department of Justice Drug Enforcement 16 Agency Administration. Take a moment and look 17 it over because my first question is going to 18 be, do you recall this, receiving this letter?</p> <p>19 MR. CLARK: Before you 20 answer, I object to the form.</p> <p>21 MR. REINS: You certainly 22 find me objectionable, sir.</p> <p>23 MR. CLARK: Nothing personal.</p> <p>24 MR. REINS: None taken.</p>	<p style="text-align: center;">Page 108</p> <p>1 2006 regarding a number of things, including 2 shipping requirements. Do you recall ever 3 having a conversation with anybody within your 4 company about this letter in relation to the 5 existing policies and procedures?</p> <p>6 MR. CLARK: Objection. Form.</p> <p>7 A. I, having not seen the letter, 8 can't -- would not have discussed it.</p> <p>9 Q. Thank you.</p> <p>10 MR. CLARK: Did you mark 11 this?</p> <p>12 MR. REINS: I did, Number 7.</p> <p>13 MR. CLARK: Okay.</p> <p>14 MR. REINS: Did you get a 15 copy? Yeah.</p> <p>16 MR. CLARK: I did. Thank 17 you.</p> <p>18 MR. REINS: Madam court 19 reporter, I accidentally gave you 20 my highlighted copy. Can you 21 restamp it? Make a copy of it. I 22 don't like the highlighting in the 23 record.</p> <p>24 ---</p>
<p style="text-align: center;">Page 107</p> <p>1 A. Just reading the first few 2 paragraphs, I can tell you I don't believe I 3 have seen this document.</p> <p>4 Q. Fair enough.</p> <p>5 My second question is going to 6 build off of that but it may not make sense 7 based on what you just said. But there were 8 some revisions not before 2008. I know you said 9 you would review the policies and procedures 10 annually.</p> <p>11 Let me start again, okay, so we 12 get a clean -- so let me shift gears, okay.</p> <p>13 You testified earlier that you 14 would review the company's policies and 15 procedures annually; am I correct?</p> <p>16 A. That is correct.</p> <p>17 Q. You said that doesn't necessarily 18 mean we would revise it, and there were no 19 revisions, according to the policies and 20 procedures we discussed, before December of 21 2008, I'll represent to you.</p> <p>22 MR. CLARK: Objection to 23 form.</p> <p>24 Q. This letter was in September of</p>	<p style="text-align: center;">Page 109</p> <p>1 (PSI-Harbauer Exhibit 8 marked.)</p> <p>2 ---</p> <p>3 BY MR. REINS:</p> <p>4 Q. All right. So this is another one 5 that was done December of the following year. 6 This will be Plaintiff's Exhibit Number 8. And 7 you probably know we're going to treat it the 8 same way. This was December 27, 2007. This is 9 again by the DEA regarding the rules and 10 regulations regarding controlled substances and 11 the duties and obligations.</p> <p>12 And so my question to you will be, 13 do you recall reviewing this one?</p> <p>14 MR. CLARK: Objection to 15 form.</p> <p>16 A. I do not recall, to the best of my 17 knowledge, after just scanning this, that I saw 18 this.</p> <p>19 Q. Fair to say, then, that you do not 20 have a recollection or belief that this was 21 contemplated in regards to amending or revising 22 the policies and procedures for the company?</p> <p>23 MR. CLARK: Objection to 24 form.</p>

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1 MR. CLARK: Objection to
 2 form.
 3 A. The whole Controlled Substances
 4 Act is to help regulate and to follow these
 5 regulations, and if I -- that letter appeared to
 6 be a further explanation of that process; is
 7 that correct?
 8 Q. That's correct.
 9 A. Okay.
 10 Q. I guess what -- and I'm not
 11 debating it -- I don't think I am. The purpose
 12 of the Controlled Substances Act is to try and
 13 minimize abuse and diversion in this country,
 14 correct?
 15 MR. CLARK: Objection.
 16 Argumentative. Calls for a legal
 17 conclusion. Form.
 18 A. I would agree that it's -- it is
 19 trying to regulate the process and keep the
 20 product in -- yes.
 21 Q. Keep people safe, correct?
 22 MR. CLARK: Objection to
 23 form.
 24 A. To keep the pharmaceutical

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Q. And to try and prevent drug
 diversion, which has affected many communities
 in this country, correct?

1 industry regulated and to keep the drugs in the
 2 system, keep it legal is ...
 3 Q. Let me give you back that
 4 document.
 5 A. Thank you.
 6 Q. I'm sorry. That's the wrong one.
 7 The one before it, which is going to be Exhibit
 8 Number 7.
 9 A. Thank you.
 10 Q. Are you with me?
 11 A. I have 7.
 12 MR. CLARK: Before -- this is
 13 your highlighted copy.
 14 MR. REINS: Okay. Yeah. Let
 15 me -- I'm going to fix that. We'll
 16 get that fixed.
 17 MR. CLARK: I'll give her my
 18 clean copy.
 19 MR. REINS: Okay. Thank you,
 20 sir.
 21 THE [REDACTED] ITNESS: Thank you.
 22 BY MR. REINS:
 23 Q. So we're now looking at Exhibit
 24 Number 7, which is specifically from the DEA,

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<p style="text-align: center;">Page 114</p> <p>1 and I want to look quickly at the background 2 paragraph. "As each of you is undoubtedly 3 aware, the abuse (nonmedical use) of controlled 4 prescription drugs is a serious and growing 5 health problem in this country."</p> <p>6 Do you take issue with that 7 sentence --</p> <p>8 MR. CLARK: Objection to 9 form.</p> <p>10 Q. -- by the -- by the Drug 11 Enforcement Administration?</p> <p>12 MR. CLARK: Same objection.</p> <p>13 A. That is their stance. That's what 14 it says they believe.</p> <p>15 Q. I know what it says, ma'am, 16 respectfully, but do you take issue with that 17 statement?</p> <p>18 MR. CLARK: Same objection.</p> <p>19 A. No, I do not.</p> <p>20 Q. You know that this is a growing 21 health crisis in our nation; do you not?</p> <p>22 MR. CLARK: Objection to 23 form. Argumentative.</p> <p>24 A. I know that illegal diversion of</p>	<p style="text-align: center;">Page 116</p> <p>1 this deposition that you try to operate your 2 company in an ethical manner; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. What I'm asking you is, you have 5 an ethical obligation to make sure, follow all 6 of these safety rules and regulations to the 7 utmost of your abilities to make sure that you 8 are not part of the problem of the opioid 9 crisis, correct?</p> <p>10 MR. CLARK: Objection to 11 form.</p> <p>12 A. We have -- we have the 13 responsibility and the legal duty to comply with 14 the law to the best of our ability and, you 15 know, to -- to follow the rules and regs. 16 That's what we're obligated to do.</p> <p>17 Q. And the reason why we started this 18 discussion is, the very purpose of these rules 19 and regs are to protect the safety of our 20 citizens, correct?</p> <p>21 MR. CLARK: Objection to 22 form.</p> <p>23 A. Based on what you showed me, the 24 reading of the words, it appears that's what it</p>
<p style="text-align: center;">Page 115</p> <p>1 drugs causes problems.</p> <p>2 Q. You know that the abuse of legal 3 drugs is causing a problem, correct?</p> <p>4 MR. CLARK: Objection to 5 form. Argumentative.</p> <p>6 A. Based on the news that I have 7 heard, yes, I would say that abuse of drugs is 8 creating a health problem.</p> <p>9 Q. And as a distributor of some of 10 those drugs, you have an obligation -- you 11 mentioned to me in the beginning of this 12 deposition -- do you remember the word you 13 used -- "ethics." You have an ethical 14 obligation to make sure you are not part of the 15 problem but part of the solution; is that fair 16 to say?</p> <p>17 MR. CLARK: Objection to 18 form. Misstates the testimony.</p> <p>19 Argumentative.</p> <p>20 Q. Would you agree with that?</p> <p>21 MR. CLARK: Same objection.</p> <p>22 A. I'm sorry. Would you repeat it?</p> <p>23 Q. Sure.</p> <p>24 You stated at the beginning of</p>	<p style="text-align: center;">Page 117</p> <p>1 said, yes, that -- I can't speak to their 2 intent, but that's what it looks like.</p> <p>3 Q. Based on what you read?</p> <p>4 MR. CLARK: Objection to 5 form.</p> <p>6 A. What you showed me earlier.</p> <p>7 Q. But no internal investigation as 8 to how the company, your company -- let me 9 rephrase that. I'm going to withdraw that 10 question.</p> <p>11 The only information you've heard 12 regarding the epidemic, as some are calling it, 13 is based on what you've seen on the news, 14 correct?</p> <p>15 MR. CLARK: Objection to 16 form.</p> <p>17 Q. And what you're reading here?</p> <p>18 MR. CLARK: Same objection.</p> <p>19 A. Yes.</p> <p>20 MR. REINS: I have no more 21 questions, ma'am. I appreciate 22 your time here today.</p> <p>23 THE WITNESS: Thank you.</p> <p>24 MR. CLARK: I have no</p>

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<p style="text-align: center;">Page 118</p> <p>1 questions.</p> <p>2 THE VIDEOGRAPHER: We're</p> <p>3 going off the record at 11:07 a m.</p> <p>4 (Signature not waived.)</p> <p>5 ---</p> <p>6 Thereupon, at 11:07 a m., on Tuesday,</p> <p>7 February 19, 2019, the deposition was concluded.</p> <p>8 ---</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: center;">Page 120</p> <p>1 CERTIFICATE</p> <p>2 STATE OF OHIO : SS:</p> <p>3 COUNTY OF FRANKLIN : I, Carol A. Kirk, a Registered Merit Reporter and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named CANDACE HARBAUER was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the deposition then given by her was by me reduced to stenotype in the presence of said witness; that the foregoing is a true and correct transcript of the deposition so given by her; that the deposition was taken at the time and place in the caption specified and was completed without adjournment; and that I am in no way related to or employed by any attorney or party hereto or financially interested in the action; and I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D)</p> <p>13 IN WITNESS WHEREOF, I have hereunto set my 14 hand and affixed my seal of office at Columbus, Ohio 15 on this 22nd day of February 2019</p> <p>16</p> <p>17</p> <p>18</p> <p>19 CAROL A KIRK, RMR NOTARY PUBLIC - STATE OF OHIO</p> <p>20 My Commission Expires: April 9, 2022</p> <p>21 ---</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: center;">Page 119</p> <p>1 CERTIFICATE</p> <p>2 STATE OF OHIO : SS:</p> <p>3 COUNTY OF _____ : 4</p> <p>5 I, CANDACE HARBAUER, do hereby certify that 6 I have read the foregoing transcript of my 7 cross-examination given on February 19, 2019; that 8 together with the correction page attached hereto 9 noting changes in form or substance, if any, it is 10 true and correct.</p> <p>11</p> <p>12 CANDACE HARBAUER</p> <p>13 I do hereby certify that the foregoing 14 transcript of the cross-examination of CANDACE 15 HARBAUER was submitted to the witness for reading and 16 signing; that after she had stated to the undersigned 17 Notary Public that she had read and examined her 18 cross-examination, she signed the same in my presence 19 on the _____ day of _____, 2019.</p> <p>20</p> <p>21 NOTARY PUBLIC - STATE OF OHIO</p> <p>22</p> <p>23 My Commission Expires: 24 _____, _____.</p>	<p style="text-align: center;">Page 121</p> <p>1 DEPOSITION ERRATA SHEET</p> <p>2 I, CANDACE HARBAUER, have read the transcript of my deposition taken on the 19th day of February 3 2019, or the same has been read to me I request that the following changes be entered upon the record for 4 the reasons so indicated I have signed the signature page and authorize you to attach the same to the 5 original transcript 6 Page Line Correction or Change and Reason: 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 Date _____ Signature _____</p>

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